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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/567,960

09/11/2006

Peter Bauer

2003P01107WOUS

3690

46726

7590

03/24/2009

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INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

ROGERS, LAKIYA G

ART UNIT

PAPER NUMBER

3744

MAIL DATE

DELIVERY MODE

03/24/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/567,960	Applicant(s) BAUER ET AL.	
	Examiner LAKIYA ROGERS	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office Action is in response to the amendment filed 12/28/2008. Claims 12-22 remain pending and claims 12,14,18,19 and 22 have been amended.

Claim Objections

Claim 14 is objected to because of the following informalities:

Regarding claim 14, line 4 recites the limitation "the uncoupled state". There is insufficient antecedent basis for this limitation in the claim. Replace the phrase with --an uncoupled state-- for clarity.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 12-14, 16, and 20-21** are rejected under 35 U.S.C. 102(b) as being anticipated by Simmons et al. (WO03/012350).

Regarding claim 12, Simmons teaches a refrigerating appliance (100) comprising a heat-insulating housing (130; Page 6, lines 14-16) and a cooling circuit including an evaporator (590), a compressor (560) and a condenser (570), a first assembly (150) including at least the housing and the evaporator; a second assembly (140) mounted remotely from the first assembly and separated therefrom by a spacing zone (see annotated figure below), said second assembly including at least the

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compressor (Page 6, line 34 – Page 7, line 3); and a coupling assembly (all couplings 330 shown in Fig. 2) extending across the spacing zone between the first and second assembly for movement of refrigerant therethrough (Page 8, lines 9-10 and lines 33-34).

Regarding claim 13, Simmons teaches the invention as recited above and further teaches in Fig. 2 including a coupling (330) disposed in a coolant pipe (220) connecting the first assembly and the second assembly (Page 8, lines 9-10 and lines 33-34).

Regarding claim 14, Simmons teaches the invention as recited above and further teaches in Fig. 2 (see annotated Figure 2 below) the refrigerating appliance wherein the coupling (330) including a first coupling portion capable of being attached to the first assembly (150) and a second coupling portion attached to the second assembly (140), the two coupling portions are self-closing in the uncoupled state allowing the first assembly and the second assembly to be detachably separable from one another (Page 8, line 33-Page 9, line 5) for remote mounting of said first assembly and said second assembly separated by said spacing zone.

Regarding the recitation "for remote mounting of said first assembly and said second assembly separated by said spacing zone", it has been held that the recitation with respect to the matter in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex part Marsham*, 2 USPQ2d 1647 (1987).

Regarding claim 16, Simmons teaches the invention as recited above and further teaches in Fig. 2 the refrigerating appliance including the condenser (570

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included in the cold producing unit 210) being part of the second assembly (140) (Page 12, lines 28-29).

Regarding claim 20, Simmons teaches in Figs. 1 and 2 an assembly for a refrigerating appliance, comprising: a heat-insulating housing (130; Page 6, lines 14-16); an evaporator (590); and at least one coupling portion (330) from which at least one of an inlet or drain pipe (220) for a coolant extends to the evaporator (cold producing unit (210); Fig. 2; Page 12, lines 28-29).

Regarding claim 21, Simmons teaches in Figs. 1 and 2 an assembly for a refrigerating appliance, comprising a compressor (560 in cold producing unit 210; Page 12, lines 28-29) and at least one of a suction or pressure pipe (220) for a coolant, the suction pipe or the pressure pipe extends between the compressor and a coupling portion (330).

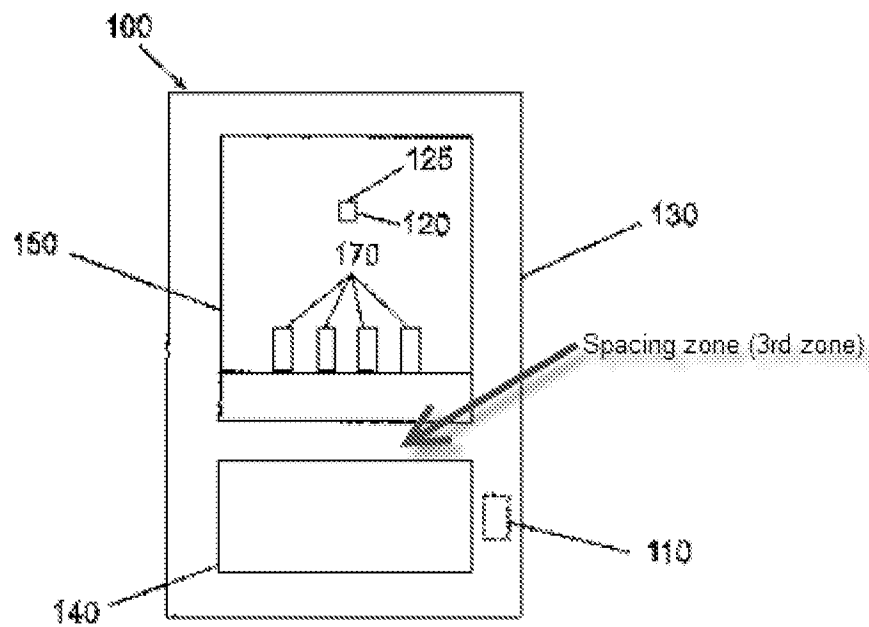


Fig. 1

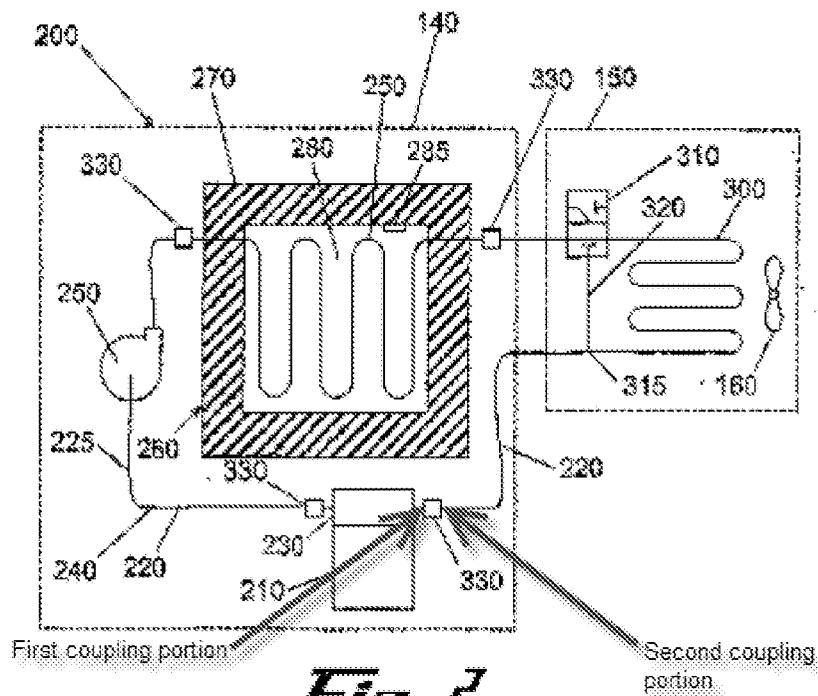


Fig. 2

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claim 15** is rejected under 35 U.S.C. 103(a) as being anticipated by Simmons et al. (WO03/012350) in view of Fumagalli (EP0845643).

Regarding claim 15, Simmons teaches the invention as recited above but fails to teach that the refrigerating appliance includes the second assembly provided with forced ventilation.

However, Fumagalli teaches in Fig. 1 a refrigeration system with variable forced ventilation. Fumagalli further teaches that forced air circulation may be used to prevent the formation of temperature gradients in the cooled compartment resulting in a more uniform temperature (Col. 1; lines 36-39).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the device of Simmons by including a forced ventilation system in order to provide a more uniform temperature as taught by Fumagalli.

6. **Claim 17** is rejected under 35 U.S.C. 103(a) as being anticipated by Simmons et al. (WO03/012350) in view of Kahler (US 6745588).

Regarding claim 17, Simmons teaches the invention as recited above but fails to teach the coolant pipe together with a condensation water pipe is guided in a line and including a coupling disposed in the condensation water pipe.

However, Kahler teaches an equivalent technique in Fig. 2b of incorporating a flexible coolant interface (48) and a flexible drain interface (50). Kahler teaches that the flexible drain interface (50) communicates between the display portion (20) and the drainage reservoir in base portion (40; Col. 4; lines 47-50). Kahler further teaches that this configuration creates a degree of independence between the base portion (40) and display portion (40) so that the display portion (40) is adjustably moveable relative to the base portion without being impeded by, or interfering, with the refrigerant or cooling piping and/ or drainage piping (Col. 4; lines 52-58). A person of ordinary skill in the art at the time of invention would recognize that the technique taught by Kahler is an equivalent to the technique as claimed because they both allow drain and refrigerator piping to be conveniently adjusted relative to the location of the modular units of the refrigerating device.

Therefore, it would have been obvious to modify the device of Simmons to include the coolant pipe together with a condensation water pipe guided in a line and including a coupling disposed in the condensation water pipe for convenient adjusting of the piping relative to the location of the modular refrigerator housing in view of the teaching by Kahler.

7. **Claims 18, 19, and 22** are rejected under 35 U.S.C. 103(a) as being anticipated by Simmons et al. (WO03/012350) in view of Holzer et al. (US2002/0014086).

Regarding claim 18, Simmons teaches the invention as recited above but fails to teach wherein the refrigerating appliance includes a kitchen furniture arrangement including a base zone and wherein the second assembly is accommodated in the base zone.

However, Holzer teaches in Figs. 1 and 2 a refrigerating appliance (11) built into kitchen furniture (10) having a base zone (28) containing a refrigeration assembly (0021, lines 23-27). Holzer further teaches that such a base construction makes it possible to tune the width of the condenser, for example, to the width of the air supply aperture, whereby the condenser is cooled rather intensively, in turn, enhancing the effectiveness of the cooling system (0010).

A person of ordinary skill in the art at the time of invention would recognize that incorporating the refrigeration appliance into kitchen furniture increases aesthetic appeal while providing protection of the essential refrigeration elements such as a condenser, fan, and compressor.

Therefore, it would have been obvious to a person of ordinary skill in the art to modify the device of Simmons to include a kitchen furniture arrangement with the second assembly in the base zone to enhance the effectiveness of the cooling system while increasing aesthetic appeal in view of the teaching by Holzer.

Regarding claim 19, Simmons as modified above teaches the invention as claimed and Holzer further teaches in Fig. 1 the kitchen furniture arrangement including at least one compartment (18), first assembly and second assembly (25 and 28) being separated by the at least one compartment of the kitchen furniture arrangement.

Regarding claim 22, Simmons teaches a method capable of installing a refrigerating appliance in furniture, comprising the following steps: installing a first assembly (150) of the refrigerating appliance, including at least one heat-insulating housing (130; Page 6, lines 14-16), an evaporator and a coolant pipe (220), in a first zone of the appliance (150); installing a second assembly (140) including at least one compressor in a second zone (Page 6, line 34 – Page 7, line 3) of the appliance; the first zone (150) being separated from the second assembly (140) by a third zone (see annotated Fig. 2) with the third zone being devoid of the first assembly and second assembly; and connecting connections (330) of said coolant pipe of said first assembly to corresponding connections of said second assembly (Fig. 2), with the coolant pipe spanning the distance between the first and second assembly.

Simmons fails to teach that the refrigerating appliance is installed in furniture.

However, Holzer teaches the technique of installing a refrigerating appliance in kitchen cabinetry. A person of ordinary skill in the art at the time of invention would

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recognize that incorporating the refrigeration appliance into kitchen cabinets increases aesthetic appeal while providing protection of the essential refrigeration elements such as a condenser, fan, and compressor without occupying additional kitchen floor space.

Therefore, it would have been obvious to modify the technique of Simmons to include the technique of installing the refrigerating appliance in furniture in order to increase the aesthetic appeal of the device in view of the teaching of the technique by Holzer.

Response to Arguments

Regarding page 8, paragraphs 2 and 3, applicant argues that the cooling chamber of Holzer ('086) is not remotely disposed from the cooling machinery and a first assembly is not remotely disposed from a second assembly and separated therefrom by a spacing zone within the kitchen furniture, and accordingly neither Simmons ('350) nor Holzer ('086) disclose structural elements of the present invention as claimed; Therefore claims 12, 20, and 21 and are allowable. However, the examiner respectfully disagrees.

Regarding claim 12, as currently presented does not recite the limitation of the refrigerating appliance being housed within kitchen furniture. Simmons teaches in Fig. 1 that the second assembly is mounted remotely from the first assembly and a coupling assembly extending across the spacing zone between the first and second assembly as recited and shown above in annotated Fig. 1. For the purpose of this examination, examiner presumes the word remotely to mean *situated at some distance away*.

Regarding claim 20, as currently presented does not recite the limitation of the refrigerating appliance being housed within kitchen furniture. Therefore, Simmons anticipates the claim as recited in the rejection above.

Regarding claim 21, as currently presented does not recite the limitation of the refrigerating appliance being housed within kitchen furniture. Therefore, Simmons anticipates the claim as recited in the rejection above.

Regarding page 8, paragraph 3 applicant argues that claims 13, 14, and 16 depend from claim 12 and are allowable for the same reasons and also because they recited additional patentable subject matter. However, the examiner respectfully disagrees.

Claim 12 is not allowable over the art of record as recited above. Therefore the rejections of claims 13, 14, and 16 stand rejected as rejected above.

Regarding page 9, paragraph 1 applicant argues that Simmons ('350) and Fumagalli ('643) either alone or in combination do not teach or suggest the subject matter defined by dependent claim 15. Claim 15 depends from claim 12 and is allowable for the same reasons and also because additional patentable subject matter is recited therein. However, the examiner respectfully disagrees.

Claim 12 is not allowable over the art of record as recited above. Therefore the rejections of claim 15 stands rejected as rejected above.

Regarding page 9, paragraph 2 applicant argues that Simmons ('350) and Fischer ('526) either alone or in combination do not teach or suggest the subject matter defined by dependent claim 17. Therefore, claim 17 is allowable. Claim 17 depends

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from claim 12 and is allowable for the same reasons and also because additional patentable subject matter is recited therein. However, examiner respectfully disagrees.

Claim 12 is not allowable over the art of record as recited above. Therefore the rejections of claim 17 stands rejected as rejected above.

Regarding page 9, paragraph 3 applicant argues that Simmons ('350) and Holzer ('086) either alone or in combination do not teach or suggest the subject matter defined by independent claim 22. Therefore, claim 22 is allowable. However, examiner respectfully disagrees.

Simmons ('350) teaches in Fig. 1 the technique of separating the first and second zone by a third zone with the third zone being devoid of the of the first and second assemblies as recited and illustrated above in annotated Fig. 1.

Regarding page 9, paragraph 3 applicant argues that claims 18 and 19 depend from claim 12 and are allowable for the same reasons and also because they recite additional patentable subject matter.

Claim 12 is not allowable over the art of record as recited above. Therefore the rejections of claims 18 and 19 stand rejected as rejected above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAKIYA ROGERS whose telephone number is (571)270-7145. The examiner can normally be reached on M-F: 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, please contact the examiner's supervisors, Frantz Jules (571)272-6681 or Cheryl Tyler (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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/LR/

/Cheryl J. Tyler/
Supervisory Patent Examiner, Art
Unit 3744